

**UNITED STATES DEPARTMENT OF COMMERCE**  
**Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

SERIAL NUMBER	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
---------------	-------------	----------------------	---------------------

08/396,066 02/28/95 YOSHIOKA

S 35,05745C1P7

EXAMINER

HORABIK, M

B2M1/0523

FITZPATRICK CELLA HARPER & SCINTO  
277 PARK AVENUE  
NEW YORK NY 10172

ART UNIT

PAPER NUMBER

26

2211

DATE MAILED: 05/23/95

This is a communication from the examiner in charge of your application.  
COMMISSIONER OF PATENTS AND TRADEMARKS

☒ This application has been examined ☒ Responsive to communication filed on February 28, 1995 ☐ This action is made final.

A shortened statutory period for response to this action is set to expire three month(s), ✓ days from the date of this letter.  
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

**Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:**

- |   |   |
|---|---|
| 1. <input type="checkbox"/> Notice of References Cited by Examiner, PTO-892.        | 2. <input type="checkbox"/> Notice of Draftsman's Patent Drawing Review, PTO-848. |
| 3. <input checked="" type="checkbox"/> Notice of Art Cited by Applicant, PTO-1449.  | 4. <input type="checkbox"/> Notice of Informal Patent Application, PTO-152.       |
| 5. <input type="checkbox"/> Information on How to Effect Drawing Changes, PTO-1474. | 6. <input type="checkbox"/>   |

**Part II SUMMARY OF ACTION**

1. ☒ Claims 67-205 are pending in the application.  
Of the above, claims 133-154 are withdrawn from consideration.
2. ☒ Claims 96, 109, 112, 125-130 have been cancelled.
3. ☒ Claims 155, 156, 158-177, 200-205 are allowed.
4. ☒ Claims 67-95, 97-107, 109-111, 113-124, 131, 132, 157, 178-199 are rejected.
5. ☐ Claims are objected to.
6. ☐ Claims are subject to restriction or election requirement.
7. ☐ This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.
8. ☐ Formal drawings are required in response to this Office action.
9. ☐ The corrected or substitute drawings have been received on                     . Under 37 C.F.R. 1.84 these drawings are ☐ acceptable; ☐ not acceptable (see explanation or Notice of Draftsman's Patent Drawing Review, PTO-848).
10. ☒ The proposed additional or substitute sheet(s) of drawings, filed on 1/9/95, has (have) been ☒ approved by the examiner; ☐ disapproved by the examiner (see explanation).
11. ☐ The proposed drawing correction, filed                     , has been ☐ approved; ☐ disapproved (see explanation).
12. ☐ Acknowledgement is made of the claim for priority under 35 U.S.C. 119. The certified copy has ☐ been received ☐ not been received ☐ been filed in parent application, serial no.                     ; filed on                     .
13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.
14. ☐ Other

EXAMINER'S ACTION

Serial Number: 08/396,066

-2-

Art Unit: 2211

1. Initially, it is noted that claim 96 cannot be amended.

This claim was cancelled in the amendment filed on February 3, 1993. Therefore, claim 96 does not exist anymore.

2. Claims 133-154 continue to be withdrawn from consideration and remain as non-elected claims directed to a separate invention. Note paper #6.

3. Claims 67-95, 97-107, 109-111, 113-124, 131, 132, and 178-199 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. In claims 67, 94, 95, 97, 98, and 105 the phrase "wherein a plurality of said electron-emitting device is mounted on a single plane" is confusing, unclear, and not understood as presently claimed. Each of the claims already have positively established that there is only one electron-emitting device. The phrase in question contradicts this statement, thus rendering the claim confusing and unclear. Is there only one electron-emitting device? Or is there a plurality of electron-emitting devices? Also the use of the word "plurality" in conjunction with a singular phrase "said electron emitting-device" does not make any sense. Finally, it is unclear where, with respect to the rest of the display device, is the single plane located. There is no structural cooperative relationship between the single plane and

Art Unit: 2211

the rest of the display device, thus rendering the display device incomplete.

5. It is noted in claim 94, the phrase in question above actually refers to a "single place". It is not understood what is meant by a single place.

6. In claims 111 and 117, the phrase "said fluorescent member emit" is confusing and unclear with respect to the rest of the claim. Which one of the "fluorescent members" is "the fluorescent member" referring to? It is suggested to change "member" to --members-- in order to clarify the claim.

7. All of the rest of the claims mentioned in the rejection are necessarily rejected as being based upon rejected base claims.

8. Claims 67-95, 97-99, 101-107, 109-111, 113-116, 178-182, and 188-199 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-38 and 40-49 of U.S. Patent No. 5,066,883 in view of Klopfer et al.

9. Patent No. 5,066,883 claims the electron emitting device as claimed in the present application. The only difference is in regards to there being a plurality of the already patented electron emitting device located in a display device with a phosphor. However, it is well known in the display device art to use an electron emitting device in a display device with phosphor as evidenced by Klopfer et al. (see column 3 lines 42 - column 4

Art Unit: 2211

line 10). Klopfer et al also suggests (Figure 8; col. 4 lines 11-20) the singular electron emitting device as described in Figures 1-6 may be expanded to a plurality of electron emitting devices (note cross points) when considered in a display device with an opposing phosphor screen.

10. It would have been obvious to one of ordinary skill in the art to provide the electron emitting device claimed in U.S. patent 5,066,883 as a plurality of electron emitting devices in a display device with phosphor as evidenced by Klopfer et al because U.S. patent 5,066,883 already claims the claimed electron emitting device and Klopfer et al teaches the well known concept to one of ordinary skill in the art of providing a plurality of electron emitting devices in general in a display device with phosphor in order to obtain a picture on the display screen.

11. Claims 155, 156, 158-177, and 200-205 are allowable over the prior art of record.

12. Claim 100 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. However, applicant is warned that by incorporating claim 100 into claim 98 would render the claim as a duplicate to allowed claim 156, thus raising the question of double patenting (see MPEP 706.03(k)).

Serial Number: 08/396,066

-5-

Art Unit: 2211

13. Claims 117-124, 131, 132, and 183-187 would be allowable if rewritten or amended to overcome the rejection under 35 U.S.C. § 112.

14. Finally claim 157 is rejected under 35 U.S.C. 101 as claiming the same invention as that of allowed claim 161 in this application. This is a double patenting rejection. (see MPEP 706.03(k)).

15. Applicant's arguments filed February 28, 1995 have been fully considered but they are not deemed to be persuasive.

16. Applicants arguments regarding the two way distinction between U.S. patent 5,066,883 and the current claims does not apply in the current rejection at hand. The rejection is not based on Yoshioka alone. Rather, it is the combination of Yoshioka and Klopfer that renders the claims as an obvious variation of what was already patented. The novel aspects of applicants invention were already patented in U.S. patent 5,066,883. This application is merely an extension of that invention, by utilizing the novel element into a conventional display device. Klopfer is evidence of that conventional display device.

17. Applicants arguments with respect to Klopfer, are not persuasive. Klopfer suggests (col. 4 lines 2-20) a phosphor layer (33) is located at the inner side of a face plate (34) above the electron emitting device. Typically, as is known in

Serial Number: 08/396,066

-6-

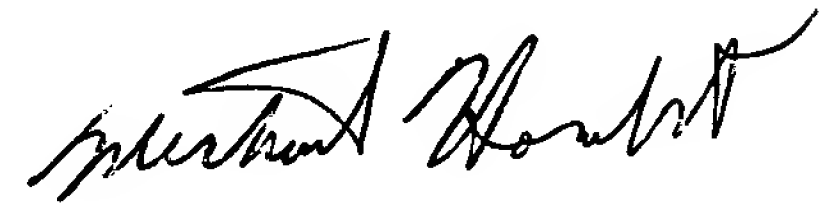
Art Unit: 2211

the display device art, the phosphor layer may be in the form of fluorescent members. There is nothing novel about a display device that incorporates fluorescent members as the phosphor screen.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Horabik whose telephone number is (703) 305-4812.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-4900.

Michael Horabik  
May 19, 1995



**MICHAEL HORABIK  
PATENT EXAMINER  
GROUP 2200**